

CAUSE NO. PD-0556-18

KARL DEAN STAHMANN, Appellant

v.

THE STATE OF TEXAS, Appellee

FILED
COURT OF CRIMINAL APPEALS
12/27/2018
DEANA WILLIAMSON, CLERK

CAUSE NO. 13-16-00400-CR
IN THE COURT OF APPEALS, THIRTEENTH-SUPREME
JUDICIAL DISTRICT

Appealed from Cause No. CR2013-409, Comal County, Texas, 207th
Judicial District, Honorable Jack H. Robison, presiding

**APPELLANT'S SECOND MOTION FOR EXTENSION OF TIME TO
FILE BRIEF**

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL
APPEALS:

COMES NOW, KARL DEAN STAHMANN, appellant, pursuant to *U.S.*

Const., Amends. 5 & 14, *Tex. Const.*, Art. I, Secs. 13 & 19, and the *Tex.R.*

App.Proc., not limited to Rules 4.1, 10.5, 38.6 and 38.9, and moves the

Court to extend the time for filing appellant's brief THIRTY (30) days to

January 28, 2018 (first weekday after 30th day), and shows:

I. PROCEDURAL HISTORY.

On or about May 12, 2016, appellant, on plea of not guilty, was convicted by jury of tampering with physical evidence, a 3rd degree felony. The court sentenced him to 10 years Texas Department of Criminal Justice-Institutional Division and a \$5000.00 fine, probated for 10 years. *Notice of Appeal* was filed June 8, 2016. The case was transferred to the Thirteenth

Court by the Third Court of Appeals of Texas on July 15, 2016.

On January 4, 2018, that court reversed and remanded to the trial court “with instructions to reform the judgment to reflect a conviction for the offense of attempted tampering with physical evidence, a state jail felony,[] and for further proceedings, including a new punishment hearing, consistent with” its opinion. Stahmann v. State, 548 S.W.3d 46(Tex.App.- Corpus Christi2018).

After granted extension, the State filed a *Motion for Rehearing* and a *Motion for Rehearing Enbanc* on February 2, 2018. Appellant’s reply was filed on March 15, 2018. The Court denied the State’s motions on May 4, 2018.

After State’s *Motion for Extension of time to File Petition for Discretionary Review* was granted, the State filed its petition on July 6, 2018. This Court granted same on October 10, 2018.

The State’s brief was filed on November 13, 2018.

II. ONE PRIOR EXTENSION.

Appellant has had one extension of time to file his brief of 15 days.

III. TIME OF MOTION.

The brief is due December 28, 2018. The motion is filed December 20, 2018, within 15 days thereof.

IV. REASONS FOR EXTENSION OF TIME.

Appellant requests an extension based on the following:

1. Counsel filed a motion for extension on December 7, 2018, and was granted a 15 day 'automatic' extension. He contacted the clerk on December 10, to tell them he had filed an Amended Motion covering matters he forgot to include in his motion and need more time than the 15 days granted, and was told to file a second motion by December 21, if he needed more time.
2. Counsel planned to be go to Dallas to spend Christmas with family and his mother, and to leave December 22 and return December 28, 2018. He would not be able to work on the brief during that time. This is only one of 2 times each year that the whole family gets together.
3. Counsel stopped taking new appointed clients until January to free time to work on this and his other cases and previously scheduled matters.
4. The State's Brief was filed November 13, 2018. Counsel was ill from November 11 to 18, and unable to work on anything from November 11 to 14, 2018.
5. Counsel was out of town for Thanksgiving with his 82 year old mother and the rest of his family from November 20 to 25, 2018. He was unable to work on the brief during that time.
6. Counsel is a solo practitioner without support staff except telephone messaging. Since November 13, 2018, he has represented/is representing some 77 clients, with some 125 cases (approximately 75/123 appointed or jail), and disposed of some 16 clients and 28 cases during that time.
7. Counsel will not be able complete the brief, as well as attend to all other cases and obligations. by its due date December 28, 2018. He believes it will be completed and filed by January 28, 2018 (first weekday after 30th day). Thus, counsel asks this Honorable Court to extend the time for filing his brief of THIRTY (30) days to January 28, 2018 (first weekday after 30th day), so that appellant will be given a full and meaningful

appeal and accorded due process and due course of law, his right to appeal and effective assistance of counsel.

WHEREFORE, appellant prays this Court grant this motion and extend the time for filing his brief for THIRTY (30) days to January 28, 2018 (first weekday after 30th day).

RESPECTFULLY SUBMITTED,
/s/ Christopher P. Morgan
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ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE: I, Christopher P. Morgan, hereby certify a true copy of the foregoing Motion has been served on December 20, 2018, electronically, by sending it through efile.TXCOURTS.gov service on the following at the address shown:

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/s/ Christopher P. Morgan
Christopher P. Morgan